the total number of animals caught in these three surveys when "clappers" (empty clam shells) were counted with the live clams. Only Atlantic sea scallops, representing other commercially desirable invertebrates were caught at 1%. Commercial clam vessels fish cleaner than the scientific surveys gear which has a liner in the dredge in order to collect all animate and inanimate objects encountered.

8.1.10 National Standard 10 - Safety at Sea

"Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea."

The proposed action should not affect the vessel operating environment, gear loading requirements or create derby style fisheries for Atlantic surfclams or ocean quahogs. The Council developed this FMP and subsequent amendments with the consultation of industry advisors to help ensure that this was the case. In summary, the Council has concluded that the proposed action will not impact or affect the safety of human life at sea. Therefore the action is consistent with National Standard 10.

In general, the setting of the surfclam and ocean quahog quotas, as well as, the suspension of the surfclam minimum size limit is being done in full conformance with the FMP and that the most recent amendment to the FMP (Amendment 13; MAFMC 2003) was found to be in compliance with the Magnuson Act. Nothing in this action would change the FMP/Amendment findings regarding that compliance.

8.2 NEPA

Finding of No Significant Impact (FONSI)

National Oceanic and Atmospheric Administration Administrative Order 216-6 contains criteria for determining the significance of the impacts of a proposed action. In addition, the Council on Environmental Quality regulations at 40 C.F.R. 1508.27 state that the significance of an action should be analyzed both in terms of "context" and "intensity". Each criterion listed below is relevant to making a finding of no significant impact and has been considered individually, as well as in combination with the others. The significance of this action is analyzed based on the NAO 216-6 criteria and CEQs context and intensity criteria.
These include:

1) *Can the proposed action reasonably be expected to jeopardize the sustainability of any target species that may be affected by the action?*

None of the proposed specifications for the next three years are expected to jeopardize the sustainability of any target species affected by the action. All of the final quota specifications under the preferred alternatives for each species are consistent with the FMP overfishing definitions. This action will protect the long-term sustainability of the surfclam and ocean quahog stocks.

2) *Can the proposed action reasonably be expected to jeopardize the sustainability of any non-target species?*

The proposed action is not expected to jeopardize the sustainability of any non-target species (sections 7.1.1, 7.2.1, 7.3.1, and 7.4.1 of this document). The proposed measures maintain the quota specifications for surfclams, ocean quahogs and Maine ocean quahogs for the next 3 years. Therefore, none of these specifications are expected to result in increased fishing effort. In addition, none of the measures are expected to alter fishing methods or the temporal and/or spatial distribution of fishing activities. Therefore, none of the proposed actions are expected to jeopardize the sustainability of non-target species relative to the 2010 specifications.

3) Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson Act and identified in FMPs?

The area affected by the proposed specifications in the surfclam and ocean quahog fisheries has been identified as EFH for: Northeast Multispecies; Atlantic Sea Scallop; Summer Flounder, Scup, and Black Sea Bass; Atlantic Mackerel, Squid, and Butterfish; Bluefish; Atlantic Billfish; and Atlantic Tunas, Swordfish and Shark Fishery Management Plans. The preferred alternatives for the 2011, 2012, and 2013 specifications will have no more than minimal or temporary adverse impacts on EFH.

4) Can the proposed action reasonably be expected to have a substantial adverse impact on public health or safety?

The proposed action is not expected to have a substantial adverse impact on public health or safety. None of the measures alters the manner in which the industry conducts fishing activities for the target species; therefore, there is no change in fishing behavior that would affect safety. None of the measures has any impact on public health.

5) Can the proposed action reasonably be expected to adversely affect endangered or threatened species, marine mammals, or critical habitat of these species?

The specifications for the next three years for ocean quahog and surfclam fishery are not expected to alter fishing methods or activities. Therefore, this action is not expected to affect endangered or threatened species or critical habitat in any manner not considered in previous consultations on the fisheries. It has been determined that fishing activities conducted under this final rule will have no adverse impacts on marine mammals. None of the measures alters fishing methods or activities.

The only gear used for the surfclam and ocean quahog fisheries is clam dredges which are now included in the List of Fisheries for 2010, as a Category III fishery for the taking of marine mammals by commercial fishing operations under Section 114 of the MMPA of 1972. Clam vessels dredge at very slow speeds and healthy animals should have no difficulty avoiding these vessels. As such, minimal interaction is expected between clam dredging gear and protected species. According to the List of Fisheries for 2010, there are no documented interactions/takes in this fishery.

6) Can the proposed action be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc.)?

The proposed action is not expected to have a substantial impact on biodiversity and ecosystem function within the affected area because the proposed action measures merely continue for three years catch allowances.

7) Are significant social or economic impacts interrelated with natural or physical environmental effects?

The proposed action is not expected to have a significant social or economic impact. In addition, none of the proposed specifications are expected to alter fishing methods, activities or the spatial and/or temporal distribution of fishing effort. As noted in section 7.0 of the EA, the proposed action is not expected to have any substantial natural or physical effects within the affected area. Therefore, there are no social or economic impacts interrelated with significant natural or physical environmental impacts that are expected.

8) Are the effects on the quality of the human environment likely to be highly controversial?

The proposed measures maintain the specifications for three additional years for the surfclam, ocean quahog, and Maine ocean quahog. The proposed action is based on measures contained in the FMP, which have been in place for many years. In addition, the scientific information upon which the annual quotas are based has been peer reviewed and is the most recent information available. In addition, these measures are strongly favored by the industry. Therefore, the measures contained in this action are not expected to be highly controversial.

9) Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas?

This action proposes to maintain the 2010 specifications for 2011, 2012, and 2013. These fisheries are prosecuted primarily using hydraulic clam dredges in the open ocean throughout the Mid-Atlantic Bight and New England. Most of the fishing effort in these fisheries occurs over featureless sand bottoms along the Atlantic Coast. These fisheries are not known to be prosecuted in any unique areas such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas. Therefore, the proposed action is not expected to have a substantial impact on any of these areas (section 7.0).

10) Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?

This action proposes to continue the 2010 quotas which are in place for 2011, 2012, and 2013. As a result, fishing effort is not expected to increase in magnitude under the proposed action. In addition, none of the proposed specifications are expected to substantially alter fishing methods, activities. As a result, the effects on the human environment of the proposed specifications for 2011, 2012, and 2013 are expected to be

minimal or non-existent compared to the 2010 specifications. The effects on the human environment as a result of implementing the 2011, 2012, and 2013 specifications for these species are not highly uncertain nor do they involve unique or uncertain risks (section 7.0).

11) Is the proposed action related to other actions with individually insignificant, but cumulatively significant impacts?

The impacts of the preferred alternatives on the biological, physical, and human environment are described in section 7.0. The synergistic interaction of improvements in the efficiency of the fishery are expected to generate positive impacts overall. These impacts will be felt most strongly in the social and economic dimension of the environment. Direct economic and social benefits from improved fishery efficiency is most likely to affect participants in these fisheries. These benefits are addressed in the RIR/IRFA of this document. Indirect benefits of the preferred alternatives are likely to affect consumers and in areas of the economic and social environment that interact in various ways with these fisheries. The proposed actions, together with past and future actions are not expected to result in significant cumulative impacts on the biological, physical, and human components of the environment.

12) Is the proposed action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural or historical resources?

This action proposes to maintain the 2010 specifications for 2011, 2012, and 2013. These fisheries are prosecuted primarily using hydraulic clam dredges in the open ocean throughout the Mid-Atlantic Bight and New England. Most of the fishing effort in these fisheries occurs over featureless sand bottoms along the Atlantic Coast. These fisheries are not known to be prosecuted in any areas that might affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or cause the loss or destruction of significant scientific, cultural or historical resources (section 7.0). Therefore, the proposed action is not expected to affect on any of these areas.

13) Can the proposed action reasonably be expected to result in the introduction or spread of a nonindigenous species?

These fisheries are prosecuted primarily using hydraulic clam dredges in the open ocean throughout the Mid-Atlantic Bight and New England. There is no evidence or indication that these fisheries have ever resulted in the introduction or spread of nonindigenous species in the past. This action proposes to maintain the 2010 specifications in 2011, 2012, and 2013. As a result, fishing effort is not expected to increase in magnitude under the proposed action. In addition, none of the proposed specifications are expected to substantially alter fishing methods, activities or the spatial and/or temporal distribution of fishing effort significantly (section 7.0). Therefore, it is highly unlikely that the proposed specifications would be expected to result in the introduction or spread of a non-indigenous species.

14) Is the proposed action likely to establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration?

This action proposes to maintain the 2010 specifications for 2011, 2012, and 2013. As a result, fishing effort is not expected to increase in magnitude under the proposed action (section 7.0). In addition, none of the proposed specifications are expected to substantially alter fishing methods, activities or the spatial and/or temporal distribution of fishing effort significantly. Maintaining the 2010 specifications in 2011, 2012, and 2013 is not likely to establish a precedent for future actions. When new stock assessment or other biological information about these species becomes available in the future, then the annual specifications will be adjusted according to the overfishing definitions contained in the FMP.

15) Can the proposed action reasonably be expected to threaten a violation of federal, state, or local law or requirements imposed for the protection of the environment?

This action proposes to continue the 2010 quotas for 2011, 2012, and 2013. As a result, fishing effort is not expected to increase in magnitude under the proposed action. In addition, none of the proposed specifications are expected to substantially alter fishing methods, activities or the spatial and/or temporal distribution of fishing effort significantly. Since no changes are expected to the previous specifications as a result of the proposed action, it is not expected that they would threaten a violation of federal, state, or local law or requirements imposed for the protection of the environment. In fact, the proposed measures have been found to be consistent with other applicable laws (sections 8.3 - 8.11).

16) Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?

The proposed action is not expected to result in cumulative effects on target or non-target species (section 7.5). The proposed 2011, 2012, and 2013 specifications would maintain the status quo level when compared to 2010 for all three fisheries. As such, the final measures are not expected to result in any cumulative effects on target or non-target species.

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting Environmental Assessment prepared for 2011, 2012, and 2013 Atlantic surfclam and ocean quahog fisheries, it is hereby determined that the proposed specifications for 2011, 2012, and 2013 will not significantly impact the quality of the human environment as described above and in the supporting Environmental Assessment. In addition, all beneficial and adverse impacts of the proposed action have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an EIS for this action is not necessary.

Chris Mantzaris for Patricia Kurkul 12/07/2010

Regional Administrator Date

8.3 Endangered Species Act

The numerous species which inhabit the management unit of this FMP that are afforded protection under the ESA of 1973 (i.e., for those designated as threatened or endangered) are described in section 6.3.

8.4 Marine Mammal Protection Act

The numerous species which inhabit the management unit of this FMP that are afforded protection under the MMPA are described in section 6.3.

8.5 Coastal Zone Management Act

The Coastal Zone Management Act (CZMA) of 1972, as amended, provides measures for ensuring stability of productive fishery habitat while striving to balance development pressures with social, economic, cultural, and other impacts on the coastal zone. It is recognized that responsible management of both coastal zones and fish stocks must involve mutually supportive goals. The Council has developed this specifications document and will submit it to NMFS: NMFS must determine whether this action is consistent to the maximum extent practicable with the CZM programs for each state (Maine through North Carolina).

8.6 Administrative Procedures Act

This Environmental Assessment is in compliance with the Administrative Procedures Act.

8.7 Information Quality Act

Utility of Information Product

Explain how the information product meets the standards for utility:

Is the information helpful, beneficial or serviceable to the intended user?

The proposed document includes the surfclam and ocean quahog specification for 2011, 2012, and 2013 and a description of the alternatives considered and the reasons for selecting the proposed management measures. This proposed specifications document implements the FMP's conservation and management goals consistent with the Magnuson Act, as well as, all other existing applicable laws.

Is the data or information product an improvement over previously available information? Is it more current or detailed? Is it more useful or accessible to the public? Has it been improved based on comments from or interactions with customers?